NATIONAL RECOVERY ADMINISTRATION

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

SAW MILL MACHINERY INDUSTRY

(A Division of the Machinery and Allied Products Industry)

AS APPROVED ON OCTOBER 11, 1934

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Approved Code No. 347—Supplement No. 43

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

SAW MILL MACHINERY INDUSTRY

As Approved on October 11, 1934

ORDER

APPROVING SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE SAW MILL MACHINERY INDUSTRY

A DIVISION OF THE MACHINERY AND ALLIED PRODUCTS INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Supplemental Code of Fair Competition for the Saw Mill Machinery Subdivision of Machinery and Allied Products Industry, and hearing having been held thereon and the annexed report on said Supplemental Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise; does hereby incorporate by reference said annexed report and does find that said Supplemental Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and does hereby order that said Supplemental Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article VIII, Sections (a) and (b), insofar as they prescribe a waiting period between the filing with the Code Authority (or such agency as may be designated in the Supplemental Code) and the effective date of price lists, as originally filed and/or revised price lists or revised terms and conditions of sale, be and they hereby are stayed pending further order.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By G. A. LYNCH, *Administrative Officer.*

Approval recommended:
BARTON W. MURRAY.
Division Administrator.
WASHINGTON, D. C.,
October 11, 1934.

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REPORT TO THE PRESIDENT

The PRESIDENT,

The White House.

SIR: This is a report on the Supplemental Code of Fair Competition for the Sawmill Machinery Subdivision of Machinery and Allied Products Industry, a public hearing on which was held in Washington, D. C., on December 6, 1933, and reconvened on December 21, 1933. The hearings were conducted in full accordance with the provisions of Title I of the National Industrial Recovery Act.

GENERAL STATEMENT

The Sawmill Machinery Subdivision, being truly representative of the manufacturers of the products defined in Article II of the Supplemental Code, has elected to formulate and submit a Supplemental Code of Fair Competition as provided in the second paragraph of Article I of the Code of Fair Competition for the Machinery and Allied Products Industry, approved by you on the seventeenth day of March, 1934.

The Subdivision includes the manufacture for sale of machinery and parts thereof for use in sawmills for converting saw logs or timbers into lumber and other timber products, and includes all those engaged in the manufacture of such machinery for sale.

ECONOMIC EFFECT

Annual sales in the Subdivision, according to the code application, declined from $2,540,000 in 1929 to $261,000 in 1932, or 90 per cent. The Subdivision has not furnished direct figures which would indicate an increase in production for 1933. Aggregate invested capital and production capacity have remained reasonably constant.

Estimates showing employment for the entire Subdivision submitted in the code application indicate that employment declined from 657 wage earners in 1929 to 188 in 1933, or 71.4 percent.

The effect of the 40-hour provision with production at more normal levels may be estimated on a basis of the 1930–1931 average of total man-hours per week by dividing by the number of hours prescribed in the code. After 1929, man-hours declined steadily from 34,690 to a minimum of 6,930 in 1932, or approximately 80 percent. Average man-hours in 1933 increased to 13,750, or 98.5 percent, and have remained almost constant.

If it is assumed that the 17,745 average man-hours for 1930–1931 are representative of the volume of production for those years, and a reasonable measure of man-hour requirements in a more normal

period, the adoption of the 40-hour week would require a force of approximately 440 employees or 67 percent of the 1929 working level.

Owing to the impossibility of all employees of the Subdivision working the maximum 40 hours, the average work week will be shorter, say 36 assumed effective hours, and employment correspondingly greater: viz, 490 workers will be required to produce the 1930–1931 volume.

The minimum wage provisions for the Subdivisions which are operating under the Code of the Machinery and Allied Products Industry, are based on a flat minimum hourly rate of 32 cents per hour for the South and the following city population differentials for all other sections of the United States:

Over 50,000 population	40 cents per hour.
10,000 to 50,000 population	38 cents per hour.
10,000 population and under	36 cents per hour.

In addition to the minimum wage rates shown above, the Code provides that women engaged in substantially the same work as men, shall receive the same rate of pay as such men employees: that the minimum wage for women employees engaged in plant operation shall be not less than 87.5 percent of the proper rate for the locality in which employed as specified; and that the minimum in the South shall be not less than 32 cents per hour.

Distribution of the number of factory workers receiving classified rates in the specified areas are not available. Consequently, it is only possible to estimate the approximate number of factory workers who will receive the benefit of the proposed minimum hourly rates, regardless of location, on the basis of the number of factory workers receiving less than the designated hourly rates as of June 15, 1933.

Estimated number of factory workers receiving less than designated hourly rates

Proposed minimum hourly rates	Distribution of factory workers receiving less than the minimum, regardless of location	
	Approximate percent	Approximate number
40 cents (other U. S.)	50.4	130
38 cents (other U. S.)	47.0	121
36 cents (other U. S.)	43.6	112
32 cents (South)	34.7	89

Based on the distribution as of June 15, 1933 and on the specified percentages of the number of factory workers receiving less than the designated rates shown in the above table, the adoption of the proposed minimum rates will probably cause an increase in factory payrolls. The estimated increase as of June 15, 1933, regardless of location of the workers, will probably, under the most favorable conditions, not exceed 14.0 per cent assuming only upward adjustment in the brackets below the 40-cent minimum and no change in man-hour requirements.

RÉSUMÉ OF SUPPLEMENTAL CODE

Article I states the purpose of the Supplemental Code.

Article II accurately defines specific terms applicable to the Subdivision as used in this Supplemental Code.

Article III provides for the adoption of the employment provisions of the Code of Fair Competition for the Machinery and Allied Products Industry, as approved by you, and as from time to time amended.

Article IV provides for the adoption of Articles II, VI, VIII and IX of the Code of Fair Competition for the Machinery and Allied Products Industry, in accordance with the conditions of this Article governing their adoption.

Article V provides for the establishment of a Code Authority and defines its powers and duties.

Article VI provides for an accounting system and methods of cost finding and/or estimating.

Article VII provides that no products of the Subdivision shall be sold or offered for sale below a reasonable cost when the Code Authority determines that an emergency exists.

Article VIII provides for method of setting up, revising and filing price lists and discount sheets and terms of sale and payment.

Article IX states that no provision of this Supplemental Code relating to pricing and marketing shall apply to export sales.

Article X provides for the modification of this Supplemental Code by the President. Provision is also made that modifications may be submitted by the Code Authority to the Administrator for approval.

Article XI. No provision of this Supplemental Code shall be so applied as to permit monopolies, or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

Article XII states the effective date of this Supplemental Code.

FINDINGS

The Assistant Deputy Administrator in his final report to us on said Supplemental Code having found as herein set forth and on the basis of all the proceedings in this matter:

We find that:

(a) Said Supplemental Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Subdivision normally employs not more than 50,000 employees; and is not classified by us as a major industry.

(c) The Supplemental Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Subdivision; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Supplemental Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Supplemental Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Supplemental Code.

For these reasons, therefore, we have approved this Supplemental Code, provided that certain provisions relating to price publication are stayed as stated in the Order.

Respectfully,

NATIONAL INDUSTRIAL RECOVERY BOARD,
By G. A. LYNCH, *Administrative Officer.*

OCTOBER 11, 1934.

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR SAW MILL MACHINERY INDUSTRY

A DIVISION OF THE MACHINERY AND ALLIED PRODUCTS INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Supplemental Code of Fair Competition for the Saw Mill Machinery Subdivision of the Machinery and Allied Products Industry, and together with the Code of Fair Competition of Machinery and Allied Products Industry, shall be the standard of fair competition for this Subdivision, and shall be binding on every member thereof.

ARTICLE II—DEFINITIONS

"Applicant" means the Saw Mill Machinery Manufacturers Association, a trade organization, all members of which are engaged in the manufacture for sale of the products of the Saw Mill Machinery Subdivision of the Machinery and Allied Products Industry.

"Industry" means the Machinery and Allied Products Industry, as defined in its Code of Fair Competition as approved by the President, March 17, 1934, and as such definition may from time to time be amended.

"Subdivision" means the Saw Mill Machinery Subdivision of the Machinery and Allied Products Industry as defined and set forth in paragraph 30 Article II of the Code of Fair Competition of the Machinery and Allied Products Industry as follows:

"Sawmill Machinery Subdivision" means the manufacture for sale of machinery and parts thereof for use in sawmills for converting saw logs or timbers into lumber and other timber products, and includes all those engaged in the manufacture of such machinery for sale.

"Code" means the Code of Fair Competition of the Machinery and Allied Products Industry as approved by the President, March 17, 1934, and as from time to time amended.

"Person" means a natural person, a partnership, a corporation, an association, a trust, a trustee, a trustee in bankruptcy, a receiver or other entity.

"Employer" means any person engaged in this Subdivision either on his own behalf or as an employer of labor.

"Employee" means any one who is employed in the Subdivision by any such Employer.

"The Act" means Title I of the National Industrial Recovery Act.

"The President" means the President of the United States.

"Basic Code Authority" means the Code Authority for the Machinery and Allied Products Industry as constituted by the Code.

"Code Authority" means the Code Authority constituted for this Subdivision as provided by the Code and by this Supplemental Code.

"Group Code Authority" means the Code Authority for any group or product classification within this Subdivision.

"Publish" means to make available to the public.

Article III—Employment Provisions

The following Articles of the Code, viz: Article III, "Working Hours"; Article IV, "Wages"; and Article V, "General Labor Provisions", are hereby made a part of this Supplemental Code, with the same effect as if they were written into this Supplemental Code.

Article IV—Adoption of Other Provisions of Code

The following Articles of the Code, viz: Article II "Definitions" Article VI, "Administration", to the extent that they shall be applicable to this Supplemental Code as such or as it may hereafter be administered as an autonomous Code; Article VIII, "Modifications and Termination"; and Article IX, "Withdrawal", are hereby made a part of this Supplemental Code, with the same effect as if they were written into this Supplemental Code.

Article V—Administration

(a) A Code Authority for this Subdivision is hereby constituted to administer, supervise and facilitate the enforcement of the Code and of this Supplemental Code in the manner and to the extent provided in the Code and in this Supplemental Code.

(b) During a period not to exceed sixty (60) days following the effective date and pending the election of the permanent Code Authority, the executive committee of the Applicant shall constitute a temporary Code Authority.

This Subdivsion, having held an election for a permanent Code Authority under the provisions of the Code of Fair Competition for the Machinery and Allied Products Industry, the method of election having been approved, and the Code Authority having been officially recognized, the Code Authority so elected shall constitute the first permanent Code Authority for this Subdivision. For subsequent elections, the provisions of this Code for election of a permanent Code Authority shall apply.

(c) The applicant shall, by written notice mailed to all employers whose names the applicant has obtained after reasonably diligent search, call a meeting of employers to be held within sixty (60) days after the effective date for the purpose of electing a permanent Code Authority, which shall consist of not less than three (3), nor more than nine (9) members, and for the purpose of adopting procedural rules and regulations for the organization and operation of the permanent Code Authority. Such written notice shall be sent by registered mail at least fifteen (15) days prior to the time fixed for such meeting.

One of the members of the permanent Code Authority shall be elected in any fair manner, with the approval of the National Industrial Recovery Board, by employers in this Subdivision not members of the Applicant, who are cooperating in this Supplemental Code as described in Section (d) hereof, if so desired by such non-members.

Any vacancy on the Code Authority due to death, resignation, or because a member thereof has ceased to be connected with the Subdivision, shall be filled at a meeting of employers called by the Code Authority on at least fifteen days' notice by registered mail sent to all employers in this Subdivision, and by a vote similar to the vote by which the retired member was originally elected.

The National Industrial Recovery Board may, in its discretion, appoint one additional member (without vote and without expense to the Industry). The permanent Code Authority so elected and appointed shall supersede the temporary Code Authority.

(d) Any employer shall be entitled to vote, either in person or by proxy, at the election of the permanent Code Authority and at other meetings of employers and share in the benefits of the activities of Code Authority and may participate in any endeavors of Code Authority in the preparation of any amendments or revisions of, or additions or supplements to, this Supplemental Code by paying or agreeing to pay, as and when assessed, his proper pro rata share of the reasonable cost of administering this Supplemental Code as determined by Code Authority and approved by the National Industrial Recovery Board.

This pro rata share shall be computed on the basis of one share for each $100,000 of the average annual sales billed f. o. b. plant by each employer for the preceding two calendar years as reported to Code Authority, to be computed at the beginning of each calendar year and to apply throughout the then current year. Each employer shall be obligated to pay at least one share.

(e) Action by employers in any Subdivision meeting for the election of Code Authority shall be by vote of the employers entitled to vote as provided in Section (d) of this Article V, each such employer to have one vote only. Action by employers in any Subdivision meeting for the adoption of procedural rules, revisions or additions to the Supplemental Code, or the transaction of other business of the Subdivision under this Supplemental Code, shall be by vote of the employers in the Subdivision who are entitled to vote thereat as provided in Section (d), Article V of the Supplemental Code and are present in person or by proxy duly executed and filed with Code Authority; cast and computed in the manner provided in Section (d), Article VI of the Code. All questions as to the number of votes which each employer shall be entitled to cast at any meeting of employers other than the meeting held to vote for the election of the permanent Code Authority shall be determined by Code Authority, in accordance with Section (d) Article VI of the Code.

In order that the Code Authority shall at all times be truly representative of the Subdivision and in other respects comply with the provisions of the Act, the National Industrial Recovery Board may prescribe such hearings as it may deem proper; and thereafter if it

shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification of the Code Authority.

Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the National Industrial Recovery Board true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the National Industrial Recovery Board may deem necessary to effectuate the purposes of the Act.

(f) Employers in this Subdivision having a common interest and common problems may be grouped by Code Authority for administrative purposes. There may be a group Code Authority approved or appointed by a Code Authority for each such group.

(g) If formal complaint is made to Code Authority that provisions of this Supplemental Code have been violated by any employer, Code Authority or the proper Group Code Authority may, to the extent permitted by the Act, cause such investigation or audit to be made, as may be deemed necessary. If such investigation is made by Group Code Authority it shall report the result of such investigation or audit to Code Authority for action.

(h) The Code Authority may appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Subdivision for the purpose of formulating fair trade practices to govern the relationships between production and distribution employees under this Supplemental Code and under such others to the extent that such fair trade practices may be proposed to the National Industrial Recovery Board as amendments to this Supplemental Code and such other codes.

Article VI—Accounting and Costing

The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all employers of the Subdivision. After such system and methods have been formulated, full details concerning them shall be made available to all employers. Thereafter all employers shall determine and/or estimate costs in accordance with the principles of such methods.

Article VII—Selling Below Reasonable Cost

Section 1. When the Code Authority determines that an emergency exists in this Subdivision and that the cause thereof is destructive price-cutting such as to render ineffective or seriously endanger the maintenance of the provisions of this Supplemental Code, the Code Authority may cause to be determined the lowest reasonable cost of the products of this Subdivision, such determination to be subject to such notice and hearing as the National Industrial Recovery Board may require. The National Industrial Recovery Board may approve, disapprove, or modify the deter-

mination. Thereafter, during the period of the emergency, it shall be an unfair trade practice for any employer of the Subdivision to sell or offer to sell any products of the Subdivision for which the lowest reasonable cost has been determined at such prices or upon such terms or conditions of sale that the buyer will pay less therefor than the lowest reasonable cost of such products.

When it appears that conditions have changed, the Code Authority, upon its own initiative or upon the request of any interested party, shall cause the determination to be reviewed.

Article VIII—Price Lists

(a) If and when Code Authority determines that in any group of the Subdivision it has been the generally recognized practice to sell a specified product on the basis of net price lists, or price lists with discount sheets, and terms of sale and payment, each employer engaged in the manufacture of such product shall, within ten (10) days after notice of such determination, file with Code Authority a net price list, or a price list with discount sheet, as the case may be, individually prepared by him showing his current prices, or prices and discounts, and terms of sale and payment for such specified product, and Code Authority shall immediately publish and send copies thereof to all known employers who are cooperating under this Supplemental Code as described in Article V (d) and engaged in the manufacture of such specified products.

Revised price lists and/or discount sheets and/or terms of sale and payment may be filed from time to time thereafter with the Code Authority by any such employer, to become operative upon the date specified therein, but such revised price lists and/or discount sheets and/or terms of sale and payment shall be filed with the Code Authority ten (10) days in advance of the operative date. Copies thereof, with notice of the operative date specified, shall be immediately published and sent to all employers cooperating under the Supplemental Code as described in Article V (d), any of whom may file, if he so desires, revisions of his price lists and/or discount sheets and/or terms of sale and payment, which shall become effective upon the date when the revised price list and/or discount sheets and/or terms of sale and payment first filed shall go into effect.

(b) If and when Code Authority shall determine that in any group of the Subdivision not now selling its product on the basis of price lists and/or discount sheets and/or terms of sale and payment, the distribution or marketing conditions in the group are the same as, or similar to, the distribution or marketing conditions in a group where the use of price lists and/or discount sheets and/or terms of sale and payment is well recognized, and that a system of selling on net price lists or price lists and discount sheets with terms of sale and payment for such specified product should be put into effect in such group, then each employer in such group shall within twenty (20) days after notice of such determination, file with Code Authority net price lists or price lists and discount sheets, with terms of sale and payment, showing his prices and discount sheets, with terms of sale and payment, and such price lists and/or discount sheets, and/or terms of sale and payment may be thereafter revised in the manner hereinbefore provided. Such methods of pricings and revisions

thereof shall be "published and sent" as described in this Article VIII, Section (a). Provided that Code Authority shall make no determination to place any product of the Subdivision (not now on a price list basis) on a price list basis, as provided in this Section unless affirmative consent to such determination is given by a two-thirds vote of employers who are at that time cooperating under this Supplemental Code as described in Article V (d), and are engaged in manufacturing such product. The eligibility requirements, method, and effect of such voting shall be the same as is provided by Article V.

(c) If and when Code Authority shall determine that it is undesirable to continue the filing of net price lists and/or price lists with discount sheets and/or fixed terms of sale and payment on any product in respect of which such filing has theretofore been required, such filing shall cease and the provisions of this Article shall not apply to such product unless and until Code Authority shall again determine that such filing be made.

(d) Code Authority for the purpose of determining lowest reasonable cost, shall have power, on its own initiative, or on the complaint of any employer, to investigate, to the extent permitted by the Act, any price or the terms of sale and payment for any product shown in any price list and/or discount sheet so filed with Code Authority by any employer; and, for the purpose of the investigation thereof, to require such employer to furnish such information concerning the cost of manufacturing and selling such product as Code Authority shall deem necessary or proper for such purpose.

No employer shall sell directly or indirectly, by any means whatsoever, any product of the Industry covered by provisions of this Article VIII at a different price or on more favorable terms of payment, than those provided in his own current net price lists, or price lists and discount sheets.

Article IX—Sales for Export

The provisions of this Supplemental Code concerning pricing and marketing shall not apply to direct export sales of any product or to sales of any product destined ultimately for export. The term "export" shall include all shipments to all places without the several States of the United States and the District of Columbia; provided, however, that no shipment to any territory or possession of the United States shall be considered an export when any employer is engaged in the subdivision in such territory or possession.

Article X—Modifications

(a) As provided by Section 10 (b) of the Act, the President may from time to time cancel or modify any order, approval, license, rule or regulation issued under Title I of the Act.

(b) Any amendments, additions, revisions, or supplements of this Supplemental Code, proposed by Code Authority, and authorized by the affirmative vote of two-thirds of the employers, shall be in full force and effect upon approval by the National Industrial Recovery Board. The eligibility requirements, method and effect of such voting shall be the same as provided by Article V hereof.

Article XI—Monopolies

No provision of this Supplemental Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

Article XII—Effective Date

This Supplemental Code shall become effective and binding on all persons engaged in the Subdivision on the eleventh day after its approval.

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